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BRIEFING MEMO

June 29, 2021

MEMORANDUM FOR THE ADMINISTRATOR

FROM: Radhika Fox, OW, 202-XXX-XXXX, Fox.Radhika@epa.gov

SUBJECT: Steam Electric Reconsideration Option Selection

DATE: Tuesday June 29, 2021

TIME: 9:30 – 10:30 AM EST

I. REQUESTING OFFICE

Office of Water, Office of Science and Technology

II. TIMING

This briefing is driven by: Executive Order 13990 directing EPA to reconsider the rule, ongoing litigation currently held in abeyance until July 26, 2021, (b) (5)

III. PURPOSE

To receive feedback on options for implementing or revising the 2020 Steam Electric Effluent Limit Guideline (2020 rule). (b) (5)



IV. **BACKGROUND AND HISTORY (BULLETS ARE FINE)**

- In 2015 EPA finalized revision to the Steam Electric Effluent Guidelines, the first update to this rule since 1982.
 - On September 18, 2017 EPA announced it was delaying implementation of the 2015 rule and initiating a new rulemaking.
- In 2020 EPA finalized revisions to the 2015 rule.
- Differences between the 2015 rule and the 2020 rule include:
 - Changes to limits and compliance dates for Flue Gas Desulfurization (FGD) wastewater
 - Relaxed numeric limits for selenium
 - Tightened limits for nitrogen and mercury
 - Compliance date extended from 2023 to 2025
 - Changes to limits and compliance dates for FGD wastewater voluntary incentives program
 - Relaxed limits for mercury and TDS
 - Tightened limits for selenium
 - Created new limits for bromide and nitrogen
 - Compliance date extended from 2023 to 2028
 - Changes to limits and compliance dates for bottom ash transport water
 - Relaxed zero discharge limit to a case-by-case volumetric purge not to exceed 10 percent of system volume
 - Compliance date extended from 2023 to 2025
 - Created new subcategories
 - High-FGD flow plants
 - Low-utilization electric generating units (peakers)
 - Electric generating units ceasing coal combustion by 2028
- After promulgation of the 2020 rule EPA is evaluating whether revision to the existing regulation is necessary for three reasons:
 - Executive Order 13990 (the 2020 Steam Electric ELGs are listed as a rule for EPA to consider revising)



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- Litigation on 2020 Rule has been consolidated in *Appalachian Voices et al. v. EPA*, No. 20-2187 (4th Cir.)
 - Petitions for review of the 2020 rule were filed by multiple environmental groups
 - Electric utilities and trade associations have intervened to defend the 2020 rule
 - The litigation is currently being held in abeyance until July 26
 - EPA is expected to make a decision to revise or not revise the 2020 Steam Electric ELGs ELG by this time
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V. KEY ISSUES

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VI. REGULATORY SUMMARY (IF APPROPRIATE)

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VII. ADDITIONAL POLICY OR TECHNICAL INFORMATION (IF APPROPRIATE)

The attached power point provides additional information.

VIII. ANTICIPATED STAKEHOLDER REACTION

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IX. STAKEHOLDER INVOLVEMENT

OW has had preliminary engagement with a wide range of stakeholders including: environmental petitioners, academic researchers, biological treatment and membrane filtration vendors, electric utilities, and trade associations.

X. ROLL-OUT AND COMMUNICATIONS PLAN

Upon selection of an option EPA and DOJ would respond to the courts regarding the ongoing litigation, and EPA would also have a formal rollout that would include involvement from the Office of the Administrator and from OW. The substance of the legal response and rollout activities would be dependent on the option selected

XI. NEXT STEPS/UPCOMING DEADLINES

We are seeking feedback on how to proceed with the implementation and potential revisions of the 2020 Rule. EPA and DOJ must respond to the courts by July 26, 2020 on EPA's intent to revise the 2020 rule.